

Public Utility Commission of Texas

Memorandum

TO: Interested Parties

FROM: Julia Harvey, Competitive Markets Division
Mark Bryant, Competitive Markets Division
Ralph Daigneault, Legal Division

DATE: October 10, 2016

RE: **Project No. 46369 – Rulemaking Relating to Reliability Must-Run Service – Staff Strawman and Request for Comment**

At the September 8, 2016 Open Meeting the Commission directed Staff to initiate a rulemaking proceeding to evaluate certain aspects of Reliability Must-Run (RMR) service in ERCOT.

To support its information-gathering efforts, Staff requests that interested parties file comment on the attached strawman proposal, which amends P.U.C. Subst. R. §25.502 to: (1) lengthen the notice period applicable to the suspension of operation of generation resources and the timeline of the associated RMR complaint process; and (2) propose new provisions related to the evaluation of RMR service. Staff additionally seeks comment on the following questions:

- Is capacity subject to RMR service required to be included in the calculation of the share of installed generation capacity described in P.U.C. Subst. R. §25.401 and set forth in PURA §39.154? If it is not required, should this capacity be included in the calculation?
- Should certain categories of resources (*e.g.*, wind generation resources or resources within a private use network that participate in ancillary services or energy markets) be exempt from consideration for RMR service? For resources within a private use network, how does this impact P.U.C. Subst. R. §25.361(f) and PURA §39.151(l)?
- Should all RMR agreements be subject to approval by the Commission or the ERCOT Board of Directors?
- Assuming there is a reliability need, should ERCOT have the discretion not to enter into an RMR agreement or select any RMR alternative in consideration of the cost of the RMR service or RMR alternative and the likelihood that such a reliability event will occur?

Staff welcomes any other comments suggesting improvements to RMR policy generally.

Interested parties may file comments by submitting 16 copies to the Commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326, by October 31, 2016. Reply comments may be filed by interested parties on November 14, 2016. Staff requests that ERCOT and Potomac Economics file reply comments on November 28, 2016. A workshop will subsequently be noticed in this project.

Please contact Julia Harvey at 512-936-7371 or julia.harvey@puc.texas.gov with additional questions.

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§25.502. Pricing Safeguards in Markets Operated by the Electric Reliability Council of Texas.

(a) **Purpose.** The purpose of this section is to protect the public from harm when wholesale electricity prices in markets operated by the Electric Reliability Council of Texas (ERCOT) in the ERCOT power region are not determined by the normal forces of competition.

(b) **Applicability.** This section applies to any entity, either acting alone or in cooperation with others, that buys or sells at wholesale energy, capacity, or any other wholesale electric service in a market operated by ERCOT in the ERCOT power region; any agent that represents such an entity in such activities; and ERCOT. This section does not limit the commission's authority to ensure reasonable ancillary energy and capacity service prices and to address market power abuse.

(c) **Definitions.** The following terms, when used in this section, shall have the following meanings, unless the context indicates otherwise.

(1) **Competitive constraint** – A transmission element on which prices to relieve congestion are moderated by the normal forces of competition between multiple, unaffiliated resources.

(2) **Generation entity** – an entity that owns or controls a generation resource.

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(3) **Market location** – the location for purposes of financial settlement of a service (e.g., congestion management zone in a zonal market design or a node in a nodal market design).

(4) **Noncompetitive constraint** – A transmission element on which prices to relieve congestion are not moderated by the normal forces of competition between multiple, unaffiliated resources.

(5) Reliability must-run (RMR) service – service provided by a generation resource to meet a reliability need resulting from the cessation or suspension of operation of that generation resource for a period of greater than 180 calendar days.

~~(65)~~ **Resource** – a generation resource, or a load capable of complying with ERCOT instructions to reduce or increase the need for electrical energy or to provide an ancillary service (*i.e.*, a “load acting as a resource”).

~~(76)~~ **Resource entity** – an entity that owns or controls a resource.

(d) **Control of resources.** Each resource entity shall inform ERCOT as to each resource that it controls, and provide proof that is sufficient for ERCOT to verify control. In addition, the resource entity shall notify ERCOT of any change in control of a resource that it controls no later than 14 calendar days prior to the date that the change in control takes effect, or as soon as possible in a situation where the resource entity cannot meet the 14 calendar day notice requirement. For purposes of this section, “control” means

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ultimate decision-making authority over how a resource is dispatched and priced, either by virtue of ownership or agreement, and a substantial financial stake in the resource's profitable operation. If a resource is jointly controlled, the resource entities shall inform ERCOT of any right to use an identified portion of the capacity of the resource. Resources under common control shall be considered affiliated.

- (e) ~~Reliability-must-run-RMR~~ resources. Except for the occurrence of a forced outage, a generation entity shall notify ERCOT in writing no later than ~~18090~~ calendar days prior to the date on which it intends to cease or suspend operation of a generation resource for a period of greater than 180 calendar days. Unless ERCOT has determined that a generation entity's generation resource is not required for ERCOT reliability, the generation entity shall not terminate its registration of the generation resource with ERCOT unless it has transferred the generation resource to a generation entity that has a current resource entity agreement with ERCOT and the transferee registers that generation resource with ERCOT at the time of the transfer. ERCOT shall maintain the confidentiality of the notification to suspend operations until it issues a final determination of the need for RMR service. This determination shall be made within 60 days of ERCOT's receipt of the notification to suspend operations. ERCOT shall have 120 days after issuing its final determination to enter into an agreement with the generation entity for RMR service.

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- (1) **Complaint with the commission.** If, after ~~120~~90 calendar days following ERCOT's issuance of a final determination of the need for RMR service, and to the extent that ERCOT has determined that the generation entity's generation resource is still the best solution to address the reliability need, ~~receipt of the generation entity's notice, either ERCOT has not informed the generation entity that the generation resource is not needed for ERCOT reliability or~~ both parties have not signed an RMR ~~a reliability must-run (RMR)~~ agreement for the generation resource, then the generation entity may file a complaint with the commission against ERCOT, pursuant to §22.251 of this title (relating to Review of Electric Reliability Council of Texas (ERCOT) conduct).
- (A) The generation entity shall have the burden of proof.
- (B) Pursuant to §22.251(d) of this title, absent a showing of good cause to the commission to justify a later deadline, the generation entity's deadline to file the complaint is 35 calendar days after the 120 calendar days following ERCOT's issuance of a final determination of the need for RMR service ~~90th calendar day following ERCOT's receipt of the notice.~~
- (C) The dispute underlying the complaint is not subject to ERCOT's alternative dispute resolution procedures.

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(D) In its complaint, the generation entity may request interim relief pursuant to §22.125 of this title (relating to Interim Relief), an expedited procedural schedule, and identify any special circumstances pertaining to the generation resource at issue.

(E) Pursuant to §22.251(f) of this title, ERCOT shall file a response to the generation entity's complaint and shall include as part of the response all existing, non-privileged documents that support ERCOT's position on the issues identified by the generation entity pursuant to §22.251(d)(1)(C) of this title.

(F) The scope of the complaint may include the need for the RMR service; the reasonable compensation and other terms for the RMR service; the length of the RMR service, including any appropriate RMR exit options; and any other issue pertaining to the RMR service.

(G) Any compensation ordered by the commission shall be effective the ~~91st calendar~~ day after the date specified in the notification to suspend operations as the last day of operations of the generation resource ~~ERCOT's receipt of the notice~~. If there is a pre-existing RMR agreement concerning the generation resource, the compensation ordered by the commission shall not become effective until the termination of the pre-existing agreement, unless the commission finds that the pre-existing RMR agreement is not in the public interest.

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(H) If the generation entity does not file a complaint with the commission, the generation entity shall be deemed to have accepted ERCOT's most recent offer as of the ~~120~~⁴⁵th calendar day after ERCOT's issuance of a final determination of the need for RMR service ~~receipt of the notice~~.

(2) **Out-of-merit-order dispatch.** The generation entity shall maintain the generation resource so that it is available for out-of-merit-order dispatch instruction by ERCOT until:

(A) ERCOT determines that the generation resource is not required for ERCOT reliability;

(B) any RMR agreement takes effect;

(C) the commission determines that the generation resource is not required for ERCOT reliability; or

(D) a commission order requiring the generation entity to provide RMR service takes effect.

(3) **RMR exit strategy.** Unless otherwise ordered by the commission, the implementation of an RMR exit strategy pursuant to ERCOT Protocols is not affected by the filing of a complaint pursuant to this subsection.

(4) **Evaluation of RMR service and RMR alternatives.** ERCOT shall develop criteria to consider the relative costs and reliability impacts of alternatives to an agreement with a generation entity to provide RMR service. If an RMR

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alternative provides cost savings in comparison to the RMR service, ERCOT may select the RMR alternative in place of the RMR service even if the RMR alternative does not provide an equivalent reliability contribution. Additionally, ERCOT may determine that no RMR service or RMR alternative is warranted when considering the likelihood of the reliability need.

(f) **Noncompetitive constraints.** ERCOT, through its stakeholder process, shall develop and submit for commission oversight and review protocols to mitigate the price effects of congestion on noncompetitive constraints.

(1) The protocols shall specify a method by which noncompetitive constraints may be distinguished from competitive constraints.

(2) Competitive constraints and noncompetitive constraints shall be designated annually prior to the corresponding auction of annual congestion revenue rights. A constraint may be redesignated on an interim basis.

(3) The protocols shall be designed to ensure that a noncompetitive constraint will not be treated as a competitive constraint.

(4) The protocols shall not take effect until after the commission has exercised its oversight and review authority over these protocols as part of the implementation of the requirements of §25.501 of this title, (relating to Wholesale Market Design for the Electric Reliability Council of Texas) so that these protocols shall take effect as part of the wholesale market design required

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1 by that section. Any subsequent amendment to these protocols shall also be
2 submitted to the commission for oversight and review, and shall not take effect
3 unless ordered by the commission.

4 (5) ERCOT, through its stakeholder process, may adopt protocols that categorize
5 all constraints as noncompetitive constraints. Protocols adopted pursuant to
6 this paragraph shall terminate no later than the 45th day after ERCOT begins
7 to use nodal energy prices for resources pursuant to §25.501(f) of this title.
8 Protocols adopted pursuant to this paragraph need not be submitted to the
9 commission for oversight and review prior to taking effect.